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## SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

## RECEIVED

SEP 201995

No. 157680
HUB LAW OFFICES
a California not-for-profit religious corporation, )

Plaintiff,
vs.
GERALD ARMSTRONG; MICHAEL WALTON; THE GERALD ARMSTRONG CORPORATION, a California for-profit corporation; DOES 1 through 100, inclusive,

Defendants.

I, Ford Greene, declare:

1. I am an attorney properly licensed by the California State Bar to practice law in all of the Courts of the State of California and am the attorney of record for Gerald Armstrong, defendant herein.
2. On September 15, 1995, after the Court had granted Armstrong's ex parte application for an extension of time to file papers in opposition to Scientology's two pending motions for summary adjudication, defense counsel Andrew Wilson asked me whether Armstrong would be filing what have been come to be known as Scientology's secret, upper level materials. I assured him that I would not be so doing, and told him that it was not because I believed that Scientology
has any legitimate claim to secrecy of said materials, but because I wanted to avoid the inevitable storm of grief that Scientology would generate if such materials were filed.
3. Based upon my word to attorney Wilson, I instructed Mr. Armstrong to remove, in total, the contents of Exhibit $1(J)(A)$ in Volume Six of Armstrong's evidence which he did.
4. Scientology's claim that such materials are "secret" and not available to public is false because said materials have long existed in the public domain. They have been published in the National Press by the Washington Post and on the Internet.
5. Within the past week, a federal court specifically found that there is no trade secret status as to the subject materials. Pursuant to the Uniform Trade Secrets Act as adopted by the State of Colorado, Scientology claimed that Lawrence Wollersheim and FactNet misappropriated its trade secrets. Justice John L. Kane, Jr., Senior District Court Judge of the United States District Court for the District of Colorado wrote as follows on September 15, 1995:

RTC is one of the formal entities constituting the Church of Scientology (the "Church") founded by L. Ron Hubbard. FACTNET is a non-profit educational and charitable corporation registered and with its principle place of business in Colorado. Wollersheim and Penny are former Scientologists ....[\$] RTC alleges that Defendants have placed on the Internet unauthorized copies of unpublished religious works called OT materials, often referred to as "Advanced Technology. They list the materials in issue (the "Works") in Exhibit " A " to the complaint. [pp. 1-3] ...

> RTC claims Defendants have misappropriated its trade secrets by acquiring, disclosing and using portions of the Works without authorization. Such claim is governed by the Colorado Uniform Trade Secrets Act ... [ [ ] Despite RTC and the Church's elaborate and ardent measures to maintain the secrecy of the Works, they have come into the public domain by numerous means. RTC's assertion that the only way in which the materials have escaped its control was through two thefts in Denmark and England was not supported by the evidence.
> .. The evidence also showed portions of the Works have been made available on the Internet through persons other than Lerma with the potential for downloading by countless users.

The Works posted by Lerma were publicly available as part of an unsealed court record in the Central District of California in Church of Scientology International v. Fishman No. CV 91-6426 HLH (Tx), C.D. Cal. Wollersheim testified copies of the Works in his possession were sent to him by an attorney representing defendants in that case for whom he had provided consulting services.

In August 1995, reporters of the Washington Post obtained copies of the Works from the unsealed Fishman file. The newspaper's publication of portions of the materials prompted RTC to request injunctive relief in Religious Technology Center v. Lerma, Civil Action No. 95-1107-A (E.D. Va.) On August 10, 1995, that court found the materials had escaped into the public domain and onto the Internet and that Lerma was not their only source on the Internet. Id., slip. op. at 14-15 (E.D. Va. Aug. 30, 1995). The court concluded RTC could not establish for the purpose of the preliminary injunction motion that the
documents were "not generally known" as required by the Virginia statute.
In the course of the hearing before me, RTC changed its position with regard to what materials constitute the purported trade secrets. At the outset, RTC maintained the entire Works were trade secrets. After evidence was heard indicating that the Works were in the public domain, RTC claimed that only portions of the Works, rather than the whole were secret. RTC's ambivalence and admission as to the non-secret nature of certain portions of the Works casts some doubt on the secret status of the Works as a whole.

The evidence showed that the Works are widely known outside of the Church through multiple sources. As such, they are not secret within the meaning of the Colorado statue and RTC has not shown a substantial likelihood of success on the merits of its trade secret claim. (pp. 14-16)

A true and correct copy of Justice Kane's September 15, 1995, opinion is attached hereto and incorporated herein as Exhibit A.
6. Attached hereto as Exhibit B is the Order referred to Religious Technology Center v. Lerma, Civil Action No. 95-1107-A (E.D. Va.)
7. Based upon the status of such materials as being in the public domain and that Scientology cannot therefore claim trade secret status with respect thereto, Armstrong respectfully requests that he be allowed to fiie Exhibit 1J)(A) as part of the public record herein. Said exhibit, as set forth above, was removed from Armstrong's evidence submitted in opposition to the pending summary adjudication motions because of my deference to Mr. Wilson's request. Despite the fact that I was true to my word and that said OT materials were removed from Armstrong's submission, Scientology has chosen to bring this ex parte application wherein it has claimed that I am a liar. In light of that bad faith, the fact that such materials are in the public domain and that Armstrong needs them for the adjudication of the pending motions, I hereby request permission to file the same. A true and correct copy thereof is attached hereto as Exhibit C.

I hereby declare the foregoing is true and correct under penalty of perjury pursuant to the laws of the State of California. Executed on September 20, 1995 at San Anselmo, California.



## ORDER

For the reasons stated in open Court, to be furthre developed in a written opinion to be issued,

Plaintiff Religious Technology Center ("RTC")'s Motion for Reconsideration and Rehearing and

Motion for a Preliminary Injunction Against Defeadant lerma are DENIED.

Defendant Lerma's Morion to Vacate the Writ of jeizure and Order for Impoundment is GRANTED and it is hereby

ORDERED that RTC shall immediately return and reetore to Defendant Lerma all seized macerials in their exact original condition. This includes both Levma's hard drives and all floppy discs; and it is further

ORUERED that Defendant Lerma shall maintain the status quo as to possession of all the allegedly copyrighted materia s at issue in this case and is restricred to employing them only in a fair use
capacity. Lerma and his counsel are specifically probibiced from making any additional copies of the materials or transferring them in any manner or publicizing them other than in the cortext of fair use.

This action moots the issue of increased bond reiating to the seizure, so Defendant Lerma's Motion to Increase Eond is DENIED.

Plaintiff RTC's Motions for Provisional Stays Perding Appeal to the Fourth Circuit are DENIED.

The Clerk is directed to forward copies of this order to counsel of record.

Entered this 15th day of September, 1995.


Alexandria, Virginia

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